



U.S. 6th Circuit
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GINO J. AGNELLO
CLERK

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

MARK A. STEPHENS, Petitioner,
Full Name (under which you were convicted)

081869
Prisoner Number

JACKSON CORRECTIONAL INST.
Place of Confinement

vs.

LIZZIE TEGELS, WARDEN, Respondent.
Authorized Person Having Custody of Petitioner

Docket No. _____
(to be supplied by Clerk)

PETITION FOR WRIT OF HABEAS CORPUS PURSUANT TO 28 U.S.C. § 2254
BY A PERSON IN STATE CUSTODY

Caution: THIS IS NOT THE FORM TO BE USED, IF YOU CLAIM THAT YOUR FEDERAL SENTENCE OR CONVICTION IS UNLAWFUL, OR IF YOU ARE A PRETRIAL DETAINEE CHALLENGING YOUR PRECONVICTION CUSTODY, A FEDERAL PRISONER CHALLENGING THE EXECUTION OF YOUR SENTENCE OR AN ACTION TAKEN BY THE BUREAU OF PRISONS, OR A PERSON IN CUSTODY CHALLENGING AN IMMIGRATION-RELATED ORDER.

I. SUBJECT OF THIS PETITION

- A. Name and location of the state court that entered the judgment of conviction which you are challenging

WAUKESHA COUNTY CIRCUIT COURT, WAUKESHA COUNTY
COURT house, 515, W. MORELAND BOULEVARD, WAUKESHA, WI
53188

- B. Criminal docket or case number 2002 CF 000886

- C. Date of the judgment of conviction JAN. 31ST 2006

- D. Date of sentencing JAN. 27TH 2006

- E. Length of sentence 20 YEARS CONFINEMENT 20 YEARS EXTENDED SUPERVISION.

- F. In this case, were you convicted on more than one count or of more than one crime?

☐ Yes ☒ No

- G. Identify all crimes of which you were convicted and sentenced in this case

BURGLARY - ARMED W/ DANGEROUS WEAPON.

- H. What was your plea? (Check one)

☐ Not guilty ☒ Guilty ☐ Insanity plea ☐ Nolo contendere (no contest)

If you entered a guilty plea to one count or charge and a not guilty plea to another count or charge, what did you plead guilty to and what did you plead not guilty to?

- I. If you went to trial, what kind of trial did you have? (Check one)

☐ Jury ☐ Judge only

SUBJECT OF THIS PETITION - continued

J. Did you testify at a pretrial hearing, trial, or a post-trial hearing?

☐ Yes ☒ No

If yes, state the type(s) of hearing or proceeding

II. DIRECT STATE APPEAL OF CONVICTION

A. Did you appeal from the judgment of conviction?

☒ Yes ☐ No

If yes, attach the decision(s) that resolved your appeal and answer the following questions:

1. Date of filing appeal ~~APRIL 10th 2014~~ ~~SEP 28th 2014~~ 9-28-15
2. Grounds raised Circuit Court erroneously exercised its discretion denying counsel. Ineffective assistance of counsel and in complete information at sentencing, pertaining to the PSI. Risk Assessment Form missing from PSI used to sentence.
3. Result denied
4. Date ~~NOV 19th 2016~~ 1-19-17

B. Did you seek further review by the highest state court?

☒ Yes ☐ No

If yes, attach the decision(s) that resolved your petition for review and answer the following questions:

1. Date of filing of petition for review Feb 17th 2017
2. Grounds raised Incomplete information by PSI missing Risk Assessment Report, state court's failed to give due process rights on PSI report, counsel & parties all were ineffective for not seeing PSI being incomplete.
3. Result denied
4. Date APRIL 13th 2017

DIRECT STATE APPEAL OF CONVICTION - continued

C. Did you file a petition for certiorari in the United States Supreme Court?

☐ Yes ☒ No

If yes, attach the decision(s) that resolved your petition for certiorari and answer the following questions:

1. Date of filing petition for certiorari _____
2. Grounds raised _____

3. Result _____
4. Date _____

III. STATE POST-CONVICTION RELIEF OTHER THAN DIRECT APPEAL

A. Other than the appeals listed above in Section II, have you previously filed any other state petitions, applications, or motions concerning this state judgment of conviction?

☐ Yes ☒ No

If yes, attach the decision(s) that resolved your application for state post-conviction relief and answer the following questions:

1. Name of court _____
2. Docket or case number _____
3. Date of filing _____
4. Type of petition, application, or motion filed _____
5. Grounds raised _____

6. Did you receive a hearing where evidence was given on your petition, application, or motion?
☐ Yes ☐ No
7. Result _____

STATE POST-CONVICTION RELIEF OTHER THAN DIRECT APPEAL- continued

8. Date _____

9. Did you appeal to the highest state court having jurisdiction over the action taken on your first state petition, application, or motion?

☐ Yes ☐ No

B. If you filed a second petition, application, or motion, attach the decision and answer the following questions:

1. Name of court _____

2. Docket or case number _____

3. Date of filing _____

4. Type of petition, application, or motion filed _____

5. Grounds raised _____

6. Did you receive a hearing where evidence was given on your petition, application, or motion?

☐ Yes ☐ No

7. Result _____

8. Date _____

9. Did you appeal to the highest state court having jurisdiction over the action taken on your second state petition, application, or motion?

☐ Yes ☐ No

C. If you filed a third petition, application, or motion, attach the decision and answer the following questions:

1. Name of court _____

2. Docket or case number _____

3. Date of filing _____

STATE POST-CONVICTION RELIEF OTHER THAN DIRECT APPEAL- *continued*

4. Type of petition, application or motion filed _____
5. Grounds raised _____

6. Did you receive a hearing where evidence was given on your petition, application, or motion?
☐ Yes ☐ No
7. Result _____
8. Date _____
9. Did you appeal to the highest state court having jurisdiction over the action taken on your third state petition, application, or motion?
☐ Yes ☐ No

IV. GROUNDS FOR RELIEF

For this petition, state **every** ground supporting your claim that you are being held in violation of the Constitution, laws, or treaties of the United States. If you fail to set forth all the grounds in this petition, you may be barred from presenting additional grounds at a later date.

Attach additional pages if you have more than four grounds. State the facts supporting each ground.

CAUTION: To proceed in the federal court, you must ordinarily first exhaust (use up) your available state-court remedies on each ground on which you request action by the federal court.

Ground One Incomplete Information Used at sentencing to give Sentence given, ineffective assistance of counsel.

Supporting **FACTS** (Briefly summarize the facts without citing cases or law.)

PSI THAT Judge ordered And used to give the sentence he did was based on the PSI alone And it was missing The critical Risk Assessment Form which would of changed The amount of sentence the Judge would of been able to

GROUND FOR RELIEF - continued

give me.

If you did not exhaust your state remedies on Ground One, explain why.

Ground Two Ineffective Assistance of All Counsel & Parties For
NOT knowing the PSI was incomplete and yet the first appeal
All the courts stated counsel wasn't ineffective, now in this they are

Supporting **FACTS** (Briefly summarize the facts without citing cases or law.)

NOT one party knew the PSI was incomplete NOT
even the DA who knew the time amount was wrong and
called the PSI to inform them, in which a amended
PSI was set to the court but the DA wasn't catching
the risk assessment form was missing nor any other
counsel or defendant, thus all were ineffective assistance.

[illegible]

GROUND FOR RELIEF - continued

Ground Four _____

Supporting **FACTS** (*Briefly summarize the facts without citing cases or law.*)

If you did not exhaust your state remedies on Ground Four, explain why.

V. PRIOR FEDERAL CHALLENGES

- A. Have you previously filed any type of petition, application, or motion **in a federal court** regarding the state conviction that you are challenging in this petition?

☒ Yes

☐ No

If yes, attach the decision(s) that resolved your prior federal court challenge and answer the following questions:

1. Name of court Habeas Corpus

PRIOR FEDERAL CHALLENGES - continued

2. Docket or case number _____
3. Date of filing _____
4. Type of petition, application, or motion filed _____
5. Grounds raised Breach of Plea deal, ineffective assistance
of counsel, ~~Denial Due Process~~
6. Did you receive a hearing where evidence was given on your petition, application, or motion?
- ☐ Yes ☒ No
7. Result Denied
8. Date _____
9. Did you appeal the action taken on your first federal petition, application, or motion to a federal court of appeals?
- ☒ Yes ☐ No

If yes, attach the decision(s) that resolved your appeal and answer the following questions:

- a. Name of court 7th Circuit
- b. Docket or case number _____
- c. Date of filing _____
- d. Type of petition, application, or motion filed _____
- e. Grounds raised Breach of Plea deal, ineffective assistance
of counsel

PRIOR FEDERAL CHALLENGES - continued

f. Result ~~to~~ denied

g. Date _____

B. Did you file a petition for certiorari in the United States Supreme Court?

☒ Yes ☐ No

If yes, attach the decision(s) that resolved your petition for certiorari and answer the following questions:

1. Date of filing petition for certiorari _____

2. Grounds raised Breach of Plea deal, ineffective ASST. of Counsel.

3. Result denied

4. Date _____

VI. REPRESENTATION

A. Give the name and address of each attorney who represented you in the following:

1. At preliminary hearing Mike Hayes, 324 E. Wisconsin Ave, Suite 1111 Milwaukee, WI 53202

2. At arraignment and plea hearing Mike Holzman, 400 W. Moreland Blvd. #C, Waukesha, WI 53188

3. At trial _____

4. At sentencing Mike Holzman, 400 W. Moreland Blvd. #C, Waukesha, WI. 53188

5. On direct appeal Jerome Buting 400 N. Executive Drive #205, Brookfield, WI 53005

REPRESENTATION - continued

6. In any state post-conviction proceeding KATHLEEN B. STILLING, 400 N.
EXECUTIVE DRIVE #205 BROOKFIELD, WI 53005
7. On appeal from any ruling against you in a state post-conviction proceeding _____
- _____
- _____

VII. REQUEST FOR RELIEF

State exactly what you want the court to do for you.

Remand for Resentencing with complete information.

VIII. DECLARATION UNDER PENALTY OF PERJURY

I, the undersigned, hereby declare under penalty of perjury that the foregoing information is true and correct.

Signed this 26th day of MARCH, 20 18.

Mr. Mark A. Stephens
Signature of Petitioner

(Signature of lawyer, if any)

If you are signing the petition and are not the petitioner, state your relationship to the petitioner and explain why the petitioner is not signing this petition.

IX. CERTIFICATE OF INMATE MAILING - *Optional*

If you deposit your petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254 in your prison/institutional/jail mailing system and attach first-class postage pre-paid, and complete and sign this statement, you will establish the filing date as the date of deposit in that mailing system.

I, the undersigned, hereby declare under penalty of perjury that I placed this petition for a writ of habeas corpus under 28 U.S.C. § 2254 in the prison/institutional/jail mailing system with prepaid, first-class postage on MARCH 26th 2018
(month, day, year)

Signed this 26th day of march, 2018.

Signature of Petitioner Mr. Mark V. Stephens

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

Plaintiff or Petitioner (full name)

v.

Case No. _____
(to be supplied by Clerk)

Defendant(s) or Respondent(s) (full name)

**PRISONER'S PETITION AND AFFIDAVIT TO PROCEED
WITHOUT PREPAYMENT OF FEES AND/OR COSTS**

THIS FORM IS FOR PRISONERS ONLY.

The cost of filing nearly every civil action is \$400.00. This includes the \$350.00 statutory filing fee and a \$50.00 administrative fee. If you cannot afford this \$400.00 fee you may ask permission to proceed without the prepayment of fees and/or costs by completing this form, the attached authorization, and providing the court with a certified copy of your institutional trust account statement for the past six months. The court will review your trust account statement and calculate the amount you must pay for your case to proceed. After you pay this initial partial filing fee, the court will review your complaint to determine whether it is sufficient to proceed. Every month, the prison will automatically deduct 20% of your monthly income from your institutional trust account. The money will be forwarded to the court to be paid towards the remainder of the \$350.00 statutory filing fee. These automatic deductions will continue until the \$350.00 statutory filing fee is paid in full. Prisoners granted permission to proceed without the prepayment of fees and/or costs do not have to pay the \$50.00 administrative fee.

The filing fee for a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2241 or 2254 is \$5.00. If you are unable to pay this \$5.00 filing fee, complete this form, the attached authorization, and provide the court with a certified copy of your institutional trust account statement for the past six months. If the court finds that you are unable to pay the \$5.00 filing fee, the court will grant your petition to proceed without prepayment of fees and/or costs and you will not have to prepay the \$5.00 fee.

If you are filing a motion to vacate, set aside, or correct a sentence pursuant to 28 U.S.C. § 2255, there is no filing fee. However, you may want to complete and return this form and the attached authorization, and provide the court with a certified copy of your institutional trust account statement for the past six months if you believe you will be unable to pay other costs associated with your case such as the cost of obtaining transcripts.

1. What type of case are you filing? _____

(e.g. civil rights, petition for a writ of habeas corpus, etc.)

2. Are you currently married? ☐ Yes ☐ No

3. If you and/or your spouse have any of the following assets, provide details:

Type of Asset	Approximate Value
Bank account (checking, savings, money market etc.)	\$
Retirement account (IRA, 401(k), 403(b), pension, etc.)	\$
Investments (certificate of deposit, stocks, securities, bonds, mutual funds, exchange traded funds, etc.)	\$
Real estate (house, apartment building, condo, lots, etc.)	\$
Other valuable assets (motor vehicles, boats, jewelry, art work, collectibles, etc.)	\$

Are there any other circumstances that you would like the court to consider when reviewing your request to proceed without prepayment of costs and/or fees?

I, _____, declare that I am the plaintiff or petitioner in the above-named action. In support of my request to proceed in forma pauperis, I declare that I am unable to pay the fees and/or costs of these proceedings and that I believe I am entitled to the relief sought in the present complaint, petition, or motion. I understand that a false statement may result in a dismissal of my claims. I answer the following questions fully, truthfully, and under penalty of perjury. 28 U.S.C. § 1746; 18 U.S.C. § 1621.

Institutional Identification Number: _____

Signature: _____

Date: _____

This form does not need to be notarized.

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

Plaintiff or Petitioner (full name)

v.

Case No. _____
(to be supplied by Clerk)

Defendant(s) or Respondent(s) (full name)

**AUTHORIZATION FOR RELEASE OF INSTITUTIONAL ACCOUNT INFORMATION
AND PAYMENT OF THE FILING FEE**

I, _____, _____,
(your name) (institutional identification number)
hereby authorize the court to obtain from the agency having custody of me, information about my institutional trust account, including balances, deposits, and withdrawals over the prior six months.

I further authorize the agency or facility having custody of me to continue to disclose information about my institutional trust account, including balances, deposits, and withdrawals to the court until the filing fee in this matter is paid in full.

I further authorize the agency or facility having custody of me to withdraw funds from my institutional trust account in accordance with 28 U.S.C. § 1915 and to forward these funds to the court for payment of any filing fee.

Signature: _____

Date: _____

This form does not need to be notarized.